

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

RONALD L. GRIMES,)	CASE NO. 1:24-CV-00192
)	
Plaintiff,)	JUDGE DONALD C. NUGENT
)	
v.)	
)	
AMAZON.COM SERVICES, INC,)	ORDER ADOPTING MAGISTRATE
TENMARKS EDUCATION LLC, et al.,)	JUDGE’S REPORT AND
)	RECOMMENDATION
Defendants.)	

This matter is before the Court upon the June 25, 2024 *Report and Recommendation* of Magistrate Judge James E. Grimes, Jr., (ECF #10), related to service of process on Defendant Amazon.com Services, Inc., Tenmarks Education LLC, and Plaintiff Ronald L. Grimes’ failure to prosecute the claims asserted against that Defendant.¹ The *Report and Recommendation* (ECF #10) is hereby ADOPTED.

PROCEDURAL BACKGROUND

On January 31, 2024, Plaintiff Grimes filed a *Complaint* naming as Defendants Amazon.com Services Inc. Tenmarks Education LLC (“Amazon Tenmarks”), located at 11819

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Separate proceedings, in connection with Plaintiff Grimes’ *Motion for Default Judgment* against the other named Defendant, Amazon.Com Services Inc. CLE2, were addressed in a separate *Order* issued by Magistrate Judge James E. Grimes, Jr., also issued on June 25, 2024 (ECF #9). Those proceedings are not at issue in connection with this *Order* adopting the *Report and Recommendation*, issued as ECF #10, related to Defendant Amazon.com Services Inc. Tenmarks Education LLC.

National Road, S.W., Etna, Ohio 43062, and Amazon.com Services CLE2 (“Amazon CLE2”), located at 21500 Emery Road, North Randall, Ohio 44128 (ECF #1). On February 7, 2024, the Clerk of Court issued a summons, along with other related papers, addressed to each of the named Defendants (Non-Numbered Docket Entry Related to ECF #2). After the passage of 90 days without evidence of completed service on either of the named Defendants, on May 9, 2024, pursuant to Federal Rule of Civil Procedure 4(m),² Magistrate Judge Grimes issued an *Order to Show Cause* to Plaintiff Grimes asking Plaintiff Grimes to show, in writing, why the Court should not recommend that the matter be dismissed for failure to prosecute (ECF #5). On May 22, 2024, a return of service was filed by the Clerk of Courts indicating that the summons issued to Defendant Amazon CLE2, was accepted by that Defendant on May 20, 2024 (ECF #6). No such document or other filing has been received indicating that Defendant Amazon Tenmarks has been served.

On June 25, 2024, Magistrate Judge Grimes issued a *Report and Recommendation* recommending that Plaintiff Grimes’ claims against Defendant Amazon Tenmarks be dismissed from the case based on Plaintiff Grimes’ failure to prosecute (ECF #10). On July 9, 2024, Plaintiff Grimes filed an *Objections/Response to Report and Recommendation*, (ECF #13), effectively agreeing with Magistrate Judge Grimes’ *Report and Recommendation* related to the claims against named Defendant Amazon Tenmarks, stating: “As for AMAZON.COM SERVICES, INC. Tenmarks Education LLC[,] 11819 National Road, S.W.Etna, OH 43062-

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Federal Rule of Civil Procedure 4(m) provides, in part, “If a defendant is not served within 90 days after the complaint is filed, the court – on motion or on its own after notice to the plaintiff – must dismiss the action without prejudice against that defendant or order that service be made within a specified time.” FED. R. CIV. P. 4(m).

7792[,] [t]hey failed to sign for the summons and it returned to the court unsigned for. *I would like to dismiss Tenmarks Education LLC Etna, OH 43062-7793 address*. I presumed that was amazon legal mail since it was on court paperwork.” (ECF #13, emphasis added).

STANDARD OF REVIEW


The applicable standard of review of a magistrate judge’s report and recommendation depends upon whether objections were made to the report and recommendation. When objections are made to the magistrate judge’s report and recommendation, the district court reviews the case *de novo*. FED. R. CIV. P. 72(b)(3). When no timely objection is filed, “the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” FED. R. CIV. P. 72 Advisory Committee Notes (citations omitted). *See also Thomas v. Arn*, 474 U.S. 140, 150 (1985) (“It does not appear that Congress intended to require district court review of a magistrate judge’s factual or legal conclusions, under a *de novo* or any other standard, when neither party objects to those findings.”) (on *certiorari* from the Sixth Circuit).

CONCLUSION

The Court has carefully reviewed the *Report and Recommendation* (ECF #10) of Magistrate Judge Grimes, as well as Plaintiff Grimes’ recently filed *Objections/Response to Report and Recommendation*, (ECF #13), and agrees with the findings set forth in the *Report and Recommendation* (ECF #10). Accordingly, the *Report and Recommendation* of Magistrate Judge Grimes (ECF #10) is ADOPTED, and the claims asserted against Defendant Amazon.com Services Inc. Tenmarks Education LLC are DISMISSED for failure to prosecute pursuant to the

provisions of Federal Rule of Civil Procedure 4(m).

IT IS SO ORDERED.



DONALD C. NUGENT
United States District Judge

DATED: July 16, 2024